IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
BENCH AT JAIPUR

ORDER
IN
S.B. Civil Second Appeal No.108/2003

Shri Nath Gupta S/o Shri Sita Ram Gupta
...defendant-appellant
Versus
Ramesh Chand Bhatt S/o Shri Krishan Vallabh Bhatt
...plaintiff-respondent

Date of Order ::: 23.11.2006

Present
Hon'ble Mr. Justice Narendra Kumar Jain

Shri Alok Garg, Counsel for defendant-appellant
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By the Court:-

Heard learned counsel for the appellant.

The plaintiff-respondent filed a suit for eviction in respect of the rented property, which was decreed by the lower court on the ground of personal bona-fide necessity. The judgment and decree passed by the lower court has been affirmed by the first appellate court also.

The learned counsel for the appellant has also contended that before passing the interim stay order by this court on 7.2.2003, the plaintiff had already taken the possession of the rented property on 21.1.2003 in execution of the decree of the courts below.

I have heard the learned counsel for the appellant and after considering his submissions in the light of the findings of both the courts below, I find that the controversial issues involved in the present case relate to the questions of fact. The question of bona-fide necessity, in the facts and circumstances of the present case, is purely a question of fact. There is concurrent finding of fact by both the courts below, which cannot be interfered with by this Court in second appeal under Section 100 of the C.P.C.

No substantial question of law is involved in this second appeal and the same is accordingly dismissed in limine.

Consequent upon dismissal of the second appeal itself, the application dated 4.10.2004 filed by the appellant under Section 151 of the C.P.C., does not survive and the same is also dismissed

(Narendra Kumar Jain) J.

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